

AMENDED IN SENATE APRIL 16, 2007

**SENATE BILL**

**No. 731**

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**Introduced by Senator Oropeza**

February 23, 2007

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An act to add and repeal Chapter 10.5 (commencing with Section 4600) of Division 2 of the Business and Professions Code, relating to massage therapy.

LEGISLATIVE COUNSEL'S DIGEST

SB 731, as amended, Oropeza. Massage therapy.

Existing law provides for the regulation of various healing arts professionals, including physicians and surgeons, chiropractors, physical therapists, and acupuncturists. Existing law authorizes the legislative body of a city or county to enact ordinances providing for the licensing and regulation of the business of massage when carried on within the city or county.

This bill would, commencing July 1, 2008, provide for the certification of massage practitioners and massage therapists by the Massage Therapy Organization, which would be a nonprofit organization that meets specified requirements, and would impose certain duties on the organization. The bill would require applicants for certification as massage practitioners or massage therapists to be 18 years of age or older, to meet specified educational criteria, to provide to the organization and update certain information, to provide fingerprints for submission to the Department of Justice for a criminal background check, and to pay fees required by the organization. The bill would require the Department of Justice to review specified information and to provide to the organization fitness determinations and certain other information. The bill would allow the organization to take certain

disciplinary action against certificate holders, would make the violation of specified provisions a misdemeanor, and would require the organization to take certain action with regard to suspending or revoking a certificate if the certificate holder has been arrested for, and charged with, specified crimes. The bill would prohibit a city, county, or city and county from enacting certain ordinances regulating the practice of massage by a certificate holder, as specified. The bill would make the organization subject to review by the Joint Committee on Boards, Commissions, and Consumer Protection. The bill would require the organization to provide the committee with a related report by September 1, 2012. The bill would repeal these provisions on January 1, 2014.

Because this bill would make the violation of specified provisions a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Chapter 10.5 (commencing with Section 4600)  
2     is added to Division 2 of the Business and Professions Code, to  
3     read:

4  
5                     CHAPTER 10.5. MASSAGE THERAPISTS

6  
7     4600. As used in this chapter, the following terms shall have  
8     the following meanings:

9     (a) “Approved school” or “approved massage school” means a  
10    facility that meets minimum standards for training and curriculum  
11    in massage and related subjects and that is approved by any of the  
12    following:

13    (1) The Bureau For Private Postsecondary And Vocational  
14    Education pursuant to Section 94739 of the Education Code prior  
15    to July 1, 2007, and as of the date on which an applicant met the  
16    requirements of paragraph (2) of subdivision (b) or subparagraph  
17    (A) of paragraph (2) of subdivision (c) of Section 4601.

1 (2) The Massage Therapy Organization or the Department of  
2 Consumer Affairs.

3 (3) An institution accredited by the Accrediting Commission  
4 for Senior Colleges and Universities or the Accrediting  
5 Commission for Community and Junior Colleges of the Western  
6 Association of Schools and Colleges and that is one of the  
7 following:

8 (A) A public institution.

9 (B) An institution incorporated and lawfully operating as a  
10 nonprofit public benefit corporation pursuant to Part 2  
11 (commencing with Section 5110) of Division 2 of Title 1 of the  
12 Corporations Code, and that is not managed by any entity for profit.

13 (C) A for-profit institution.

14 (D) An institution that does not meet all of the criteria in  
15 subparagraph (B) that is incorporated and lawfully operating as a  
16 nonprofit public benefit corporation pursuant to Part 2  
17 (commencing with Section 5110) of Division 2 of Title 1 of the  
18 Corporations Code, that has been in continuous operation since  
19 April 15, 1997, and that is not managed by any entity for profit.

20 (4) A college or university of the state higher education system,  
21 as defined in Section 100850 of the Education Code.

22 (5) A school of equal or greater training that is approved by the  
23 corresponding agency in another state or accredited by an agency  
24 recognized by the United States Department of Education.

25 (b) “Compensation” means the payment, loan, advance,  
26 donation, contribution, deposit, or gift of money or anything of  
27 value.

28 (c) (1) “Massage” means the application of a system of  
29 structured touch, pressure, movement, and holding to the soft  
30 tissues of the human body ~~with the purpose of positively affecting~~  
31 ~~the health and well-being of the client.~~ The practice includes the  
32 external application of water, heat, cold, lubricants, salt scrubs, or  
33 other topical preparations, and the use of devices that mimic or  
34 enhance the actions of the hands. Massage does not include the  
35 prescription of legend drugs or controlled substances, the diagnosis  
36 of illness or disease, or any treatment for which a license to practice  
37 medicine, chiropractic, physical therapy, podiatry, or any other  
38 profession is required. Massage specifically does not include  
39 moving a joint beyond an individual’s normal physiological range  
40 of motion, or using a fast, low amplitude thrust.

(2) “Massage” does not include touching that meets either of the following criteria:

(A) It is done as part of movement education, energy balancing, or any other technique, profession, or modality in which any soft tissue manipulation is incidental to, and not the central aim of, the practice.

(B) It is done while engaging in the practice of another somatic technique, profession, or modality with established standards and ethics in which a practitioner is qualified, provided that those services are not designated or implied to be massage or massage therapy.

(3) For purposes of this chapter, massage and bodywork are interchangeable.

(d) “Massage therapist,” “bodyworker,” “bodywork therapist,” or “massage and bodywork therapist” means a person who is certified by the Massage Therapy Organization under subdivision (c) of Section 4601 and who administers massage for compensation.

(e) “Massage practitioner,” “bodywork practitioner,” or “massage and bodywork practitioner” means a person who is certified by the Massage Therapy Organization under subdivision (b) of Section 4601 and who administers massage for compensation.

(f) “Organization” means the Massage Therapy Organization created pursuant to this chapter, which shall be a nonprofit organization exempt from taxation under ~~26 USC 501(c)(3)~~ *Section 501(c)(3) of Title 26 of the United States Code*. The organization may commence activities as authorized by this section once it has submitted a request to the Internal Revenue Service seeking this exemption.

(g) “Registered school” means a facility that meets minimum standards for training and curriculum in massage and related subjects and that either was recognized by the Bureau for Private Postsecondary and Vocational Education pursuant to Section 94931 of the Education Code prior to July 1, 2007, and as of the date on which an applicant met the requirements of paragraph (2) of subdivision (b) or subparagraph (A) of paragraph (2) of subdivision (c) of Section 4601, or is recognized by the organization or the Department of Consumer Affairs, by an institution accredited by the senior commission or the junior commission of the Western

1 Association of Schools and Colleges as defined in paragraph (2)  
 2 of subdivision (a) of Section 4600, by a college or university of  
 3 the state higher education system as defined in Section 100850 of  
 4 the Education Code, or by a school of equal or greater training that  
 5 is approved by the corresponding agency in another state.

6 4600.5. (a) A Massage Therapy Organization, as defined in  
 7 subdivision (f) of Section 4600, shall be created and shall have the  
 8 responsibilities and duties set forth in this chapter. The organization  
 9 may take any reasonable actions to carry out the responsibilities  
 10 and duties set forth in this chapter, including, but not limited to,  
 11 hiring staff ~~or~~ and entering into contracts.

12 (b) (1) The organization shall be governed by a board of  
 13 directors made up of at least two representatives from each  
 14 professional society, association, or other entity, whose  
 15 membership is comprised of massage therapists and that chooses  
 16 to participate in the organization. To qualify, a professional society,  
 17 association, or other entity shall have a membership in California  
 18 of at least 1,000 individuals for the last three years, and shall have  
 19 bylaws that require its members to comply with a code of ethics.  
 20 The board of directors shall also include ~~a person selected by the~~  
 21 ~~League of California Cities, a person selected by the California~~  
 22 ~~State Association of Counties, and a person selected by the Director~~  
 23 ~~of Consumer Affairs, unless these entities choose not to exercise~~  
 24 ~~this right of selection. The~~ each of the following persons:

25 (A) *One member selected by each statewide association of*  
 26 *private postsecondary schools incorporated on or before July 1,*  
 27 *2008, whose member schools have together had at least 1,000*  
 28 *graduates in each of the previous three years from massage therapy*  
 29 *programs meeting the approval standards set forth in subdivision*  
 30 *(a) of Section 4600, except from those qualifying entities that*  
 31 *choose not to exercise this right of selection.*

32 (B) *One member selected by the League of California cities,*  
 33 *unless this entity chooses not to exercise this right of selection.*

34 (C) *One member selected by the California State Association*  
 35 *of Counties, unless this entity chooses not to exercise this right of*  
 36 *selection.*

37 (D) *One member selected by the Director of Consumer Affairs,*  
 38 *unless this entity chooses not to exercise this right of selection.*

39 The organization's bylaws shall establish a process by which  
 40 any other directors may be selected.

(2) The initial board of directors shall establish the organization, initiate the request for tax-exempt status from the Internal Revenue Service, and solicit input from the massage community concerning the operations of the organization. The initial board of directors, in its discretion, may immediately undertake to issue the certificates authorized by this chapter after adopting the necessary bylaws or other rules, or may establish by adoption of bylaws the permanent governing structure prior to issuing certificates.

(c) The board of directors shall establish fees reasonably related to the cost of providing services and carrying out its ongoing responsibilities and duties. Initial and renewal fees shall be established by the board of directors annually.

4601. (a) The organization shall issue a certificate authorizing an applicant who satisfies the requirements of this chapter to perform massage services as described in this chapter in any jurisdiction in the state.

(b) (1) In order to obtain certification as a massage practitioner, an applicant shall submit a written application and provide the organization with satisfactory evidence that he or she meets all of the following requirements:

~~(1)~~

(A) The applicant is 18 years of age or older.

~~(2)~~

(B) The applicant has successfully completed, at a single approved school, curricula in massage and related subjects totaling a minimum of 250 hours, ~~which~~ *that* incorporates appropriate school assessment of student knowledge and skills. Included in the hours shall be instruction addressing anatomy and physiology, contraindications, health and hygiene, and business and ethics, with at least 100 hours of the required minimum 250 hours devoted to these curriculum areas.

~~(3)~~

(C) All fees required by the organization have been paid.

~~New~~

(2) *New* certificates shall not be issued pursuant to this subdivision after December 31, 2013.

(c) In order to obtain certification as a massage therapist, an applicant shall submit a written application and provide the organization with satisfactory evidence that he or she meets all of the following requirements:

1 (1) The applicant is 18 years of age or older.

2 (2) The applicant satisfies at least one of the following  
3 requirements:

4 (A) He or she has successfully completed the curricula in  
5 massage and related subjects totaling a minimum of 500 hours. Of  
6 this 500 hours, a minimum of 250 hours shall be from approved  
7 schools. The remaining 250 hours required may be secured either  
8 from approved or registered schools, or from continuing education  
9 providers approved by, or registered with, the organization or the  
10 Department of Consumer Affairs. After December 31, 2013,  
11 applicants may only satisfy the curricula in massage and related  
12 subjects from approved schools.

13 (B) The applicant has passed an examination that has been  
14 approved by the organization.

15 (3) All fees required by the organization have been paid.

16 (d) The organization shall issue a certificate to an applicant who  
17 meets the other qualifications of this chapter and holds a current  
18 and valid registration, certification, or license from any other state  
19 whose licensure requirements meet or exceed those defined within  
20 this chapter. The organization shall have discretion to give credit  
21 for comparable academic work completed by an applicant in a  
22 program outside of California.

23 (e) An applicant applying for a massage therapist or massage  
24 practitioner certificate shall file with the organization a written  
25 application provided by the organization, showing to the  
26 satisfaction of the organization that he or she meets all of the  
27 requirements of this chapter.

28 (f) Any certification issued under this chapter shall be subject  
29 to renewal every two years in a manner prescribed by the  
30 organization, and shall expire unless renewed in that manner. The  
31 organization may provide for the late renewal of a license.  
32 *Certificates issued pursuant to this section or subdivision (a) or*  
33 *(c) of Section 4604 on or before December 31, 2013, shall, after*  
34 *December 31, 2013, be renewed without any additional educational*  
35 *requirements, provided that the certificate holder continues to be*  
36 *qualified pursuant to this chapter.*

37 (g) (1) The organization shall have the responsibility to  
38 determine that the school or schools from which an applicant has  
39 obtained the education required by this chapter meet the  
40 requirements of this chapter. If the organization has any reason to

1 question whether or not the applicant received the education that  
2 is required by this chapter from the school or schools that the  
3 applicant is claiming, the organization shall investigate the facts  
4 to determine that the applicant received the required education  
5 prior to issuing a certificate.

6 (2) For purposes of paragraph (1) and any other provision of  
7 this chapter for which the organization is authorized to receive  
8 factual information as a condition of taking any action, the  
9 organization shall have the authority to conduct oral interviews of  
10 the applicant and others or to make any investigation deemed  
11 necessary to establish that the information received is accurate and  
12 satisfies any criteria established by this chapter.

13 4601.2. No certificates shall be issued by the organization  
14 pursuant to this chapter prior to July 1, 2008.

15 4601.5. (a) Prior to issuing a certificate to the applicant *or*  
16 *designating a custodian of records*, the organization shall require  
17 the applicant *or the custodian of records candidate* to submit  
18 fingerprint images in a form consistent with the requirements of  
19 this section. The organization shall submit the fingerprint images  
20 and related information to the Department of Justice for the purpose  
21 of obtaining information as to the existence and nature of a record  
22 of state and federal level convictions and of state and federal level  
23 arrests for which the Department of Justice establishes that the  
24 applicant *or candidate* was released on bail or on his or her own  
25 recognizance pending trial. Requests for federal level criminal  
26 offender record information received by the Department of Justice  
27 pursuant to this section shall be forwarded to the Federal Bureau  
28 of Investigation by the Department of Justice. The Department of  
29 Justice shall review the information returned from the Federal  
30 Bureau of Investigation, and shall compile and disseminate a fitness  
31 determination regarding the *applicant or* candidate to the  
32 organization.

33 (b) The Department of Justice shall provide information to the  
34 organization pursuant to subdivision (p) of Section 11105 of the  
35 Penal Code.

36 (c) The Department of Justice and the organization shall charge  
37 a fee sufficient to cover the cost of processing the request for state  
38 and federal level criminal offender record information.

39 (d) The organization shall request subsequent arrest notification  
40 service from the Department of Justice, as provided under Section



1 11105.2 of the Penal Code, for all applicants for licensure *or*  
2 *custodian of records candidates* for whom fingerprint images and  
3 related information are submitted to conduct a search for state and  
4 federal level criminal offender record information.

5 (e) This section shall become operative July 1, 2008.

6 4601.6. *Organization directors, employees, or volunteer*  
7 *individuals may undergo the background investigation process*  
8 *delineated in Section 4601.5.*

9 4602. (a) The organization may discipline a certificate holder  
10 by any, or a combination, of the following methods:

11 (1) Placing the certificate holder on probation.

12 (2) Suspending the certificate and the rights conferred by this  
13 chapter on a certificate holder for a period not to exceed one year.

14 (3) Revoking the certificate.

15 (4) Suspending or staying the disciplinary order, or portions of  
16 it, with or without conditions.

17 (5) Taking other action as the organization, as authorized by  
18 this chapter or its bylaws, deems proper.

19 (b) The organization may issue an initial certificate on probation,  
20 with specific terms and conditions, to any applicant.

21 (c) (1) Notwithstanding any other provision of law, if the  
22 organization receives notice that a certificate holder has been  
23 arrested and charges have been filed by the appropriate prosecuting  
24 agency against the certificate holder alleging a violation of  
25 subdivision (b) of Section 647 of the Penal Code or any other  
26 offense described in subdivision (h) of Section 4603, the  
27 organization shall take all of the following actions:

28 (A) Immediately suspend, on an interim basis, the certificate of  
29 that certificate holder.

30 (B) Notify the certificate holder at the address last filed with  
31 the organization that the certificate has been suspended, and the  
32 reason for the suspension.

33 (C) Notify any business that the organization has in its records  
34 as employing the certificate holder that the certificate has been  
35 suspended.

36 (2) Upon notice to the organization that the charges described  
37 in paragraph (1) have resulted in a conviction, the suspended  
38 certificate shall become subject to permanent revocation. The  
39 organization shall provide notice to the certificate holder that it  
40 has evidence of a valid record of conviction and that the certificate

1 will be revoked unless the certificate holder provides evidence that  
2 the conviction is either invalid or that the information is otherwise  
3 erroneous.

4 (3) Upon notice that the charges have resulted in an acquittal,  
5 or have otherwise been dismissed prior to conviction, the certificate  
6 shall be immediately reinstated and the certificate holder and any  
7 business that received notice pursuant to subparagraph (C) of  
8 paragraph (1) shall be immediately notified of the reinstatement.

9 4602.5. (a) Upon the request of any law enforcement agency  
10 or any other representative of a local government agency with  
11 responsibility for regulating, or administering a local ordinance  
12 relating to, massage or massage businesses, the organization shall  
13 provide information concerning a certificate holder, including, but  
14 not limited to, the current status of the certificate, any history of  
15 disciplinary actions taken against the certificate holder, the home  
16 and work addresses of the certificate holder, and any other  
17 information in the organization's possession that is necessary to  
18 verify facts relevant to administering the local ordinance.

19 (b) The organization shall accept information provided by any  
20 law enforcement agency or any other representative of a local  
21 government agency with responsibility for regulating, or  
22 administering a local ordinance relating to, massage or massage  
23 businesses. The organization shall have the responsibility to review  
24 any information received and to take any actions authorized by  
25 this chapter that are warranted by that information.

26 4603. It is a violation of this chapter for a certificate holder to  
27 commit, and the organization may deny an application for a  
28 certificate or discipline a certificate holder for, any of the following:

29 (a) Unprofessional conduct, including, but not limited to, the  
30 following:

31 (1) Incompetence or gross negligence in carrying out usual  
32 massage or massage therapy functions.

33 (2) Repeated similar negligent acts in carrying out usual massage  
34 or massage therapy functions.

35 (3) Denial of licensure, revocation, suspension, restriction, or  
36 any other disciplinary action against a certificate holder by another  
37 state or territory of the United States, by any other government  
38 agency, or by another California health care professional licensing  
39 board. A certified copy of the decision, order, or judgment shall  
40 be conclusive evidence of these actions.

1 (b) Procuring a certificate by fraud, misrepresentation, or  
2 mistake.

3 (c) Violating or attempting to violate, directly or indirectly, or  
4 assisting in or abetting the violation of, or conspiring to violate,  
5 any provision or term of this chapter or any rule or bylaw adopted  
6 by the organization.

7 (d) Conviction of any felony, or conviction of a misdemeanor  
8 that is substantially related to the qualifications, functions, or duties  
9 of a certificate holder, in which event the record of the conviction  
10 shall be conclusive evidence of the crime.

11 (e) Impersonating an applicant or acting as a proxy for an  
12 applicant in any examination referred to under this chapter for the  
13 issuance of a certificate.

14 (f) Impersonating a certified practitioner or therapist, or  
15 permitting or allowing an uncertified person to use a certificate.

16 (g) Committing any fraudulent, dishonest, or corrupt act that is  
17 substantially related to the qualifications, functions, or duties of a  
18 certificate holder.

19 (h) Committing any act punishable as a sexually related crime.

20 4603.5. It shall be the responsibility of any certificate holder  
21 to notify the organization of his or her home address, as well as  
22 the address of any business establishment where he or she regularly  
23 works as a massage therapist or massage practitioner, whether as  
24 an employee or as an independent contractor. A certificate holder  
25 shall notify the organization within 30 days of changing either his  
26 or her home address or the address of the business establishment  
27 where he or she regularly works as a massage therapist or massage  
28 practitioner.

29 4604. (a) Notwithstanding Section 4601, the organization may  
30 grant a massage practitioner certificate to any person who applies  
31 on or before January 1, 2010, with one of the following:

32 (1) A current valid massage permit or license from a California  
33 city, county, or city and county and documentation evidencing that  
34 the person has completed at least a 100-hour course in massage at  
35 a state-approved or registered school, or out-of-state school  
36 recognized by the organization as providing comparable education,  
37 has been practicing for at least three years, and has provided at  
38 least 1,000 hours of massage to members of the public for  
39 compensation.

(2) Documentation evidencing that the person has completed at least a 100-hour course in massage at a state-approved or registered school, or out-of-state school recognized by the organization as providing comparable education, has been practicing for at least three years, and has provided at least 1,750 hours of massage to members of the public for compensation. For purposes of this subdivision, evidence of practice shall include either of the following:

(A) A W-2 form or employer's affidavit containing the dates of the applicant's employment.

(B) Tax returns indicating self-employment as a massage practitioner or massage therapist or any other title that may demonstrate experience in the field of massage.

(3) Documentation evidencing that the person holds a current valid certificate of authorization as an instructor at a massage school approved by the organization or the Department of Consumer Affairs, or holds the position of a massage instructor at a school accredited by an agency recognized by the United States Department of Education, or colleges and universities of the state higher education system, as defined in Section 100850 of the Education Code.

(b) (1) After reviewing the information submitted under subdivision (a), the organization may require additional information necessary to enable it to determine whether to issue a certificate.

(2) If an applicant under paragraph (1) of subdivision (a) or paragraph (1) of subdivision (c) has not complied with Section 4601.5, or its equivalent, when obtaining a license or permit from the city, county, or city and county, the organization shall require the applicant to comply with Section 4601.5 prior to issuing a certificate pursuant to this section.

(c) (1) A person applying for a massage practitioner certificate on or before January 1, 2010, who meets the educational requirements of either paragraph (1) or (2) of subdivision (a), but who has not completed the required number of practice hours prior to submitting an application pursuant to this section, may apply for a conditional certificate.

(2) An applicant for a conditional certificate shall be required to complete 30 hours of additional education per year from schools or courses described in paragraph (5) until he or she has completed a total of 250 hours of education.

1 (3) Upon successful completion of the requirements of this  
2 subdivision, the organization shall issue a certificate to the person  
3 that is not conditional.

4 (4) The organization shall immediately revoke the conditional  
5 certificate issued to any person pursuant to this subdivision if the  
6 time period specified in paragraph (2) expires without proof of  
7 completion of the requirements having been filed with the  
8 organization.

9 (5) Any additional education required by this section may be  
10 completed through courses provided by any of the following:

11 (A) An approved school.

12 (B) A registered school.

13 (C) A provider approved by, or registered with, the organization  
14 or the Department of Consumer Affairs.

15 (D) A provider that establishes to the satisfaction of the  
16 organization that its course or courses are appropriate educational  
17 programs for this purpose.

18 (d) Nothing in this section shall preclude the organization from  
19 exercising any power or authority conferred by this chapter with  
20 respect to a conditional certificate holder.

21 4605. It is an unfair business practice for any person to state  
22 or advertise or put out any sign or card or other device, or to  
23 represent to the public through any print or electronic media, that  
24 he or she is certified, registered, or licensed by a governmental  
25 agency to perform the functions of a massage therapist or massage  
26 practitioner.

27 4606. (a) It is an unfair business practice for any person to  
28 hold oneself out or use the title of “certified massage therapist” or  
29 “certified massage practitioner” or any other term, such as  
30 “licensed,” “registered,” or “CMT,” that implies or suggests that  
31 the person is certified as a massage therapist or practitioner without  
32 meeting the requirements of Section 4601 or 4604.

33 (b) Any person who holds himself or herself out or uses the title  
34 of “certified massage therapist” or “certified massage practitioner”  
35 or any other term, such as “licensed,” “registered,” or “CMT,” that  
36 implies or suggests that the person is certified as a massage  
37 therapist or practitioner, without possessing a valid certificate  
38 issued pursuant to this chapter, is guilty of a misdemeanor  
39 punishable by up to 90 days in a county jail, by a fine of fifty  
40 dollars (\$50) for the first violation, one hundred dollars (\$100) for

1 the second violation, and two hundred dollars (\$200) for the third  
2 and subsequent violations, or by both that imprisonment and fine.

3 4607. The superior court in and for the county in which any  
4 person acts as a massage practitioner or massage therapist in  
5 violation of the provisions of this chapter, may, upon a petition by  
6 any person, issue an injunction or other appropriate order  
7 restraining the conduct. The proceedings under this paragraph shall  
8 be governed by Chapter 3 (commencing with Section 525) of Title  
9 7 of Part 2 of the Code of Civil Procedure.

10 4608. Nothing in this chapter is intended to limit or prohibit a  
11 person who obtains a certification pursuant to this chapter from  
12 providing services pursuant to, and in compliance with, Sections  
13 2053.5 and 2053.6.

14 4612. (a) (1) The holder of a certificate issued pursuant to  
15 this chapter shall have the right to practice massage, consistent  
16 with this chapter, in any city, county, or city and county in this  
17 state and shall not be required to obtain any other license, permit,  
18 or other authorization, except as provided in this section, to engage  
19 in that practice.

20 (2) Notwithstanding any other provision of law, a city, county,  
21 or city and county shall not enact an ordinance that requires a  
22 license, permit, or other authorization to practice massage, as  
23 defined in this chapter, by an individual who is certified pursuant  
24 to this chapter. No provision of any ordinance enacted by a city,  
25 county, or city and county that is in effect before the effective date  
26 of this chapter, and that requires a license, permit, or other  
27 authorization to practice massage, may be enforced against an  
28 individual who is certified pursuant to this chapter.

29 (3) Except as provided in subdivision (b), nothing in this section  
30 shall be interpreted to prevent a city, county, or city and county  
31 from adopting or enforcing any local ordinance governing zoning,  
32 business licensing, and reasonable health and safety requirements  
33 for massage establishments or businesses. Subdivision (b) shall  
34 not apply to any massage establishment or business that employs  
35 or uses persons to provide massage services who are not certified  
36 pursuant to this chapter.

37 (b) (1) This subdivision shall apply only to massage  
38 establishments or businesses that are sole proprietorships, where  
39 the sole proprietor is certified pursuant to this chapter, and to  
40 massage establishments or businesses that employ or use only

1 persons certified pursuant to this chapter to provide massage  
2 services. For purposes of this subdivision, a sole proprietorship is  
3 a business where the owner is the only person employed by that  
4 business to provide massage services.

5 (2) (A) Any massage establishment or business described in  
6 paragraph (1) shall maintain on its premises evidence for review  
7 by local authorities that demonstrates that all persons providing  
8 massage services are certified.

9 (B) Nothing in this section shall preclude a city, county, or city  
10 and county from including in a local ordinance a provision that  
11 requires a business described in paragraph (1) to file copies or  
12 provide other evidence of the certificates held by the persons who  
13 are providing massage services at the business.

14 (3) A city, county, or city and county may charge a massage  
15 business or establishment a business licensing fee sufficient to  
16 cover the costs of the business licensing activities established by  
17 a local ordinance described in this section.

18 (4) Nothing in this section shall prohibit a city, county, or city  
19 and county from adopting land use and zoning requirements  
20 applicable to massage establishments or businesses, provided that  
21 these requirements shall be no different than the requirements that  
22 are uniformly applied to other professional or personal services  
23 businesses.

24 (5) Local building code or physical facility requirements  
25 applicable to massage establishments or businesses shall not require  
26 additional restroom, shower, or other facilities that are not  
27 uniformly applicable to other professional or personal service  
28 businesses, nor shall building or facility requirements be adopted  
29 that (A) require unlocked doors when there is no staff available to  
30 assure security for clients and massage staff who are behind closed  
31 doors, or (B) require windows that provide a view into massage  
32 rooms that interfere with the privacy of clients of the massage  
33 business.

34 (6) A city, county, or city and county may adopt reasonable  
35 health and safety requirements with respect to massage  
36 establishments or businesses, including, but not limited to,  
37 requirements for cleanliness of massage rooms, towels and linens,  
38 and reasonable attire and personal hygiene requirements for persons  
39 providing massage services, provided that nothing in this paragraph  
40 shall be interpreted to authorize adoption of local ordinances that

1 impose additional qualifications, such as medical examinations,  
2 background checks, or other criteria, upon any person certified  
3 pursuant to this chapter.

4 (7) Nothing in this section shall preclude a city, county, or city  
5 and county from doing any of the following:

6 (A) Requiring an applicant for a business license to operate a  
7 massage business or establishment to fill out an application that  
8 requests the applicant to provide relevant information.

9 (B) Making reasonable investigations into the information so  
10 provided.

11 (C) Denying or restricting a business license if the applicant  
12 has provided materially false information.

13 (c) An owner or operator of a massage business or establishment  
14 subject to subdivision (b) shall be responsible for the conduct of  
15 all employees or independent contractors working on the premises  
16 of the business. Nothing in this section shall preclude a local  
17 ordinance from authorizing suspension, revocation, or other  
18 restriction of a license or permit issued to a massage establishment  
19 or business if violations of this chapter, or of the local ordinance,  
20 occur on the business premises.

21 (d) Nothing in this section shall preclude a city, county, or city  
22 and county from adopting a local ordinance that is applicable to  
23 massage businesses or establishments described in paragraph (1)  
24 of subdivision (b) and that does either of the following:

25 (1) Provides that duly authorized officials of the city, county,  
26 or city and county have the right to conduct reasonable inspections,  
27 during regular business hours, to ensure compliance with this  
28 chapter, the local ordinance, or other applicable fire and health  
29 and safety requirements.

30 (2) Requires an owner or operator to notify the city, county, or  
31 city and county of any intention to rename, change management,  
32 or convey the business to another person.

33 4613. (a) Nothing in this chapter shall restrict or limit in any  
34 way the authority of a city, county, or city and county to adopt a  
35 local ordinance governing any person who is not certified pursuant  
36 to this chapter.

37 (b) Nothing in this chapter is intended to affect the practice  
38 rights of any person licensed by the state to practice or perform  
39 any functions or services pursuant to that license.



1     4615. (a) This chapter shall be subject to the review required  
2 by Division 1.2 (commencing with Section 473).

3     (b) The organization shall provide to the Joint Committee on  
4 Boards, Commissions, and Consumer Protection by September 1,  
5 2012, a report as required by Section 473.2.

6     4620. This chapter shall remain in effect only until January 1,  
7 2014, and as of that date is repealed, unless a later enacted statute,  
8 that is enacted before January 1, 2014, deletes or extends that date.

9     SEC. 2. No reimbursement is required by this act pursuant to  
10 Section 6 of Article XIII B of the California Constitution because  
11 the only costs that may be incurred by a local agency or school  
12 district will be incurred because this act creates a new crime or  
13 infraction, eliminates a crime or infraction, or changes the penalty  
14 for a crime or infraction, within the meaning of Section 17556 of  
15 the Government Code, or changes the definition of a crime within  
16 the meaning of Section 6 of Article XIII B of the California  
17 Constitution.